

April 12, 2016

Honorable Judge Catherine D. Perry
United States District Court
Thomas Eagleton United States Courthouse
111 South 10th Street
St. Louis, Missouri 63102

Re: United States v. City of Ferguson, Case No. 4:16CV180 CDP

Honorable Judge Perry:

We request that you cancel Section 38 d of the proposed Consent Decree, as a very small rebuke to the Department of Justice for how they have handled the investigation of Ferguson.

Section 38 d. of the Consent Decree mandates that the City of Ferguson change its occupancy code regulations to no longer require an occupancy permit to be updated as people move in and out. Removing this one section of the Consent Decree would in no way undermine Constitutional Policing, and in fact has no connection to Constitutional Policing or anything the Department of Justice found in its report on Ferguson. However this one section does serve as an example of how the Department of Justice has abused the process and used it for political purposes that have no connection to what actually happened in Ferguson. Removing this one small section would serve as a very small rebuke to the Department of Justice, a reminder that even the DOJ must operate fairly and transparently, that it must not place its political agenda in front of the law.

The death of Michael Brown re-started what had been a stalled Civil Rights movement, and that is good for our country. His death caused a re-examination of police interactions with minority communities and much needed conversations about police shootings. It also released decades of pent up frustration and anger at our failure as a society to extend equality of opportunity to all of our citizens. The residents of Ferguson support these conversations and the progress they will bring in our country.

Most of this anger had very little to do with policing in Ferguson. The Department of Justice cleared the officer in the shooting of Mike Brown. The Report on the Ferguson Police Department, which the Department of Justice released with much fanfare, actually only accuses the City of purposely increasing traffic tickets as a means of increasing revenue. It hints that the police might have targeted African Americans. However it's only support for this contention is publicly reported traffic stop data that the Department of Justice then manipulated to suggest a higher racial disparity, by excluding age as a factor and by including distant majority white areas whose residents rarely drive through Ferguson. The Department of Justice's report

on Ferguson offered a distorted view of policing in Ferguson, combining out of context information and manipulated statistics to justify the anger that had been unleashed across the U.S.

The Department of Justice has used this report to demand the most extensive, expensive Consent Decree in U.S. history. Proportionality is a concept in criminal law, not civil law. However by any measure the Department of Justice has treated Ferguson as a criminal case; it has acted as a prosecutor, not a neutral investigator, continually distorting what was happening in Ferguson to support the larger national narrative on police reform. And the cures it has demanded are far out of proportion to what it actually found in the report on Ferguson's police department. Even by the financial estimates of the St. Louis Post-Dispatch, the Consent Decree will be by far the most expensive per capita of any decree signed in the United States – it will be at least 70% more expensive than that signed by Cleveland, Ohio or East Haven, Connecticut. Even the size and number of demands in the document far surpass anything else the Department of Justice has ever demanded:

Cities entering Consent Decrees	Total Pages	Deadlines	Deadlines <= 180 days
Ferguson	127	64	50
East Haven	55	30	22
Cleveland	103	41	14
Cincinnati	30	11	7

By any measure, there is no proportionality or fairness in what the Department of Justice is demanding of the City of Ferguson.

The Department of Justice is using Ferguson as an experiment in Social Engineering. Why does the Consent Decree contain changes to the City's housing codes? What does this have to do with Constitutional Policing? Nothing. Instead the Civil Rights Division of the Department of Justice recognized a unique opportunity to leverage the wave of national anger to use Ferguson as a social experiment. They are trying to use Ferguson as an opportunity to engineer a Civil Rights attorney's dream of what they believed to be a perfect city, even though this has little connection to the mundane task of actually managing a municipality and will actually hurt our City. The changes to the occupancy permits are but one small example of how the Department of Justice went beyond its mandate of insuring Constitutionality to trying to expand the power of the Department of Justice to impact every part of American life.

Somehow lost in this process is that Ferguson is a majority African American City. All of the "cures" that the Department of Justice is demanding cost money. All of the social engineering that the Department of Justice is forcing on Ferguson will impact the quality of life for Ferguson residents. Most of whom are African American. Somehow we have entered into a strange situation where, to protect Ferguson's African American residents the Department of Justice is forcing higher

spending and taxes upon the mostly African American residents, and forcing changes to local governance that will make it harder to keep our neighborhoods nice. To “save” the African American residents of Ferguson, the Department of Justice wants to increase their taxes and decrease their housing values.

The Department of Justice is overstepping its Constitutional Bounds. Our Federal system clearly delineates the responsibilities of different branches of government, and of different levels of government. The Department of Justice is trying to use Ferguson to erase these boundaries – it is trying to create a Federal right to control how towns and cities operate. And if it is able to do so in Ferguson, with no pushback from the Courts, it will have created a right for the Department of Justice to force very basic changes on governance in literally any City in the United States of America.

Cancelling this one section of the Consent Decree will put the Department of Justice on notice. The Department of Justice has an important role to play in reforming our policing. However even the Department of Justice must operate within the bounds of the Constitution, and it should operate fairly and transparently. And as importantly, the Department of Justice must be cautious about forcing a political agenda into each case it addresses. Cancelling this one small part of the Ferguson Consent Decree, a part that has nothing to do with Constitutional Policing but everything to do with the Department of Justice overstepping its bounds, will put the Department of Justice on notice that even it must follow the law.

Respectfully,

Blake Ashby and the members of Ferguson Truth, an organization made up of many Ferguson residents formed to push for transparency and fairness from the Department of Justice.